

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the foregoing amendments and the following remarks.

Applicants first wish to thank Examiner Loney for the courtesies extended during a recent telephone interview with Applicants' representative. During this telephone interview, the claims, possible claim amendments (e.g., claiming a shoe in combination with a disposable shoe liner), and the cited prior art were discussed, but no specific agreements were reached regarding the claims.

Claims 27-55 are currently pending in the present application, including independent claims 27, 34, 41, and 50. Claims 1-15 are being cancelled in this paper, while new claims 51-55 are being added in this paper. The Final Office Action of November 18, 2004 indicated that claims 27-40 are allowed.

New independent claim 41, for instance, is directed to a shoe in which is placed a disposable shoe liner. The liner comprises a laminate structure that comprises a first substrate containing a thermoplastic polymer and a second substrate containing a thermoplastic polymer. At least one of the substrates comprises a nonwoven web. The thermoplastic polymer of the first substrate is fused together with the thermoplastic polymer of the second substrate to form fused portions and unfused portions located between the fused portions. The unfused portions define pockets containing discrete regions of a functional material that is capable of providing comfort to a wearer's foot.

In the Final Office Action, previous independent claims 1 and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by either U.S. Patent No. 5,938,650 to Baer, et al. or 4,892,535 to Bjornberg, et al. Baer, et al. is directed to an absorbent core

for absorbing liquids, and Baer, et al. specifically describes its absorbent core as a component of a diaper or incontinent device. Baer, et al. highlights features of its absorbent core that aid diapers and incontinence garments with preventing leaks. (Col. 4). Additionally, Baer, et al. compares its absorbent core to the "conventional cores used in present day diapers." (Col. 5). Likewise, Bjornberg, et al. is specifically directed to absorbent pads of the type used as incontinence pads (col. 1), and Bjornberg, et al. describes features of its absorbent pad that reduce the chance of liquid leakage or spillage. (Col. 2).

Applicants respectfully submit that neither of the above-described references anticipates new independent claims 41 and 50. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP § 2131. In this case, new claims 41 and 50 both recite *a shoe* in which is placed *a disposable shoe liner*, as suggested by the Examiner during the recent telephone interview. Neither Baer, et al. nor Bjornberg, et al. describes *a shoe* in which is placed *a disposable shoe liner*, wherein the disposable shoe liner comprises a specific laminate structure.

As stated in Applicants' previous Response filed on January 18, 2005, the cited references simply do not relate in any manner whatsoever to a disposable shoe liner. Nevertheless, the recent Advisory Action of February 14, 2005 stated the following: "The claimed invention does not distinguish structurally from the prior art as indicated in the final rejection since the intended use and preamble language does not structurally distinguish the recited invention from the prior art."

Applicants respectfully submit that new independent claims 41 and 50 "distinguish structurally from the prior art," since these claims recite "a shoe in which is placed a disposable shoe liner" and then continue by reciting features of the laminate structure that makes up the disposable shoe liner. Various portions of Applicants' specification describe placement of a disposable shoe liner into a shoe, for example, explaining ways in which the disposable shoe liner may be placed in and worn inside a wearer's shoe. (See, e.g., Appl., p. 1, line 25 – p. 2, line 20; p. 6, line 22 – p. 7, line 13; p. 15, lines 13-25; p. 21, line 17 – p. 22, line 14; etc.). And no such *shoe* in which is placed a *disposable shoe liner* is disclosed or in any way suggested by the cited Baer, et al. and Bjornberg, et al. references.

Thus, for at least the reasons set forth above, Applicants respectfully submit that new independent claims 41 and 50—as well as new dependent claims 42-49 and 51-55—patentably define over the prior art of record. It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Loney is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

Please charge any additional fees required by this Amendment to Deposit Account No. 04-1403.

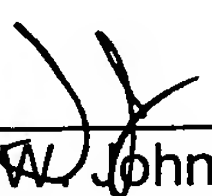
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Reply to Final Office Action of Nov. 18, 2004 and Advisory Action of Feb. 14, 2005

Respectfully submitted,

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